



Excise Taxes Newsletter

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ALL TAX AND FEE PROGRAMS

1. New Legislation Related to Excise Taxes

The bills listed below were enacted during the last legislative session and are effective January 1, 2002 unless otherwise indicated.

AB 173 (Statutes 2001, Chapter 811). This bill amends the California Integrated Waste Management Fee Law by extending the January 1, 2002, sunset date on the exemption for the use, disposal, or placement of solely inert waste on property where surface mining operations are being conducted.

AB 1123 (Statutes 2001, Chapter 251). This bill provides the Board with the authority to grant relief of interest imposed due to an audit determination, provided the failure to pay taxes or fees was due to an unreasonable error or delay by an employee of the Board.

SB 312 (Statutes 2001, Chapter 426). This bill amended the Cigarette and Tobacco Products Law to provide that a distributor may exclude the wholesale cost of tobacco products returned by a customer from the wholesale cost used to calculate the tax, or may claim a refund of the excise tax paid on the distribution of the tobacco products or take a credit on its return in lieu of a refund.

SB 896 (Statutes 2001, Chapter 638). This bill revises the Emergency Telephone Users Surcharge Law to conform to the Federal Mobile Telecommunication Sourcing Act with respect to the taxation of mobile telecommunications services. (see article 11 of this newsletter for more information)

You can go online to learn more about these bills. Go to www.leginfo.ca.gov or www.boe.ca.gov/legdiv/legancont01.htm. Or contact the Excise Taxes Division at 800-400-7115.

2. Get It In Writing!

Each year the Board receives many calls from taxpayers needing help with their tax questions. While we are always glad to provide help and guidance over the telephone, we would like to remind you that it is always best to get tax advice in writing.

You may be relieved of tax, penalty, or interest charges if the Board determines you reasonably relied on written advice from us and, in reliance upon that advice, you did not charge or collect tax from your customer or pay the tax to the Board. Such relief is not available for advice given over the telephone or in person.

This relief is available if the advice provided by Board staff was in response to a written request that identifies the taxpayer and fully describes the specific facts and circumstances of the activities or transaction for which the advice is requested. In describing the specific facts of a transaction, it would be helpful if you included copies of representative documents for your business transactions in your request for relief.

3. Helpful Tip When Calling Us

The Excise Taxes Division is always glad to help tax and fee payers over the telephone. In order to provide you with faster service, it is helpful if you have your account number and a copy of the correspondence (return or letter) readily available for reference. This helpful tip will assist us in promptly providing you with the answers you need!

4. Your Rights as a Taxpayer

As a California taxpayer, you have many rights. Some of these rights include:

- Your Right to Courteous and Prompt Service
- Your Right to be Treated Fairly
- Your Right to Confidentiality
- Your Right to Information and Assistance
- Your Right to Address Your Elected Board Members
- Your Rights During a Tax Audit
- Your Rights During the Collection Process
- Your Right to a Hearing—
Jeopardy Determination
- Your Right to a Refund

We have a variety of services that are designed to help you understand how tax laws affect your business. We also provide interpreter services for persons who are hearing impaired and bilingual services for persons who need assistance in a language other than English.

Along with your rights as a tax or fee payer, you have certain responsibilities. For example, you must report and pay your taxes or fees when due. If you do not pay your taxes or fees, we are required by law to collect the debt

from you. If you are unable to pay your taxes or fees in full, you may qualify for an installment payment agreement.

For more information on your rights as a taxpayer, you can order publication 70, *The California Taxpayer's Bill of Rights*. To request a copy, please call our Information Center toll-free at 800-400-7115. You may request to speak with a representative or you may leave a recorded message and include your mailing address. Publication 70, along with many other publications are also available on our website at www.boe.ca.gov.

If you believe you have been treated inappropriately by a Board employee, you should first contact the employee's supervisor. If you are still unable to resolve the issue or would like to know more about your rights under any of our programs, please contact the

Taxpayers' Rights Advocate Office, MIC:70
P.O. Box 942879
Sacramento, CA 94279-0070

Telephone: 916-324-2798
Toll-free: 888-324-2798
Fax: 916-323-3319

You can also visit the Board's website at www.boe.ca.gov/tra.htm.

5. Policy Regarding Employee Solicitation or Acceptance of Gifts

It is against Board policy for an employee to solicit or accept – either directly or indirectly – any gift, favor, entertainment, or any other thing of monetary value from a person whom the employee knows or has reason to believe

- Has, or is seeking to obtain, contractual or other business or financial relations with the Board of Equalization; or
- Conducts business or other activities that are monitored by the Board, under circumstances from which it reasonably could be substantiated that the gift was intended to influence the employee in his or her official actions or was intended as a reward for any official actions performed by the employee.

If a Board employee violates this policy, it should be reported to Ms. Darlene Allen, Chief, Internal Security and Audit Division. Call 916-445-2918.

6. Safety of Board Employees

Paying taxes seldom comes under the category of “pleasurable things to do.” Although dealing with the deadlines and legal requirements is not always easy, most people make an effort to carry out these responsibilities calmly and without much friction.

Unfortunately, this is not always the case, as when Board employees are threatened with physical harm. Whether such threats are made in jest or with serious intent, the Board must take them seriously. Employees have a right to feel safe and secure in their jobs. Because of this, it is the Board’s policy that threats to staff – whether made by other employees or from the public – be reported to management and, if necessary, to law enforcement personnel for further action.

There are many administrative procedures in place for resolving disputes and complaints. Taxpayers are encouraged to take full advantage of those procedures.

For more information on your rights as a taxpayer, please call the Information Center and request a copy of publication 70, *The California Taxpayer’s Bill of Rights*. If you have a problem you have been unable to resolve, you can contact the Taxpayers’ Rights Advocate at 888-324-2798.

ALCOHOLIC BEVERAGE TAX

7. Are You Required To Register?

In general, you must register with the Board of Equalization’s Excise Taxes Division if you are required to obtain one of the following licenses issued by the Department of Alcoholic Beverage Control (ABC):

- Manufacturer
- Winegrower
- Wine blender
- Distilled spirits manufacturer’s agent
- Rectifier
- Wholesaler
- Importer
- Customs broker
- On-sale general brew pub

If you apply to the ABC for one of the above licenses, we will be notified of your application and will mail you a registration packet to complete. ABC will not issue a license until you have registered with the Board and established an account.

Common carriers, other than railroads and steamship companies, must also register with us in order to transport alcoholic beverages into this state.

All registered taxpayers must post security of at least \$500 with us prior to the issuance of an Alcoholic Beverage Tax License.

If you have questions regarding this program or need to register with the Board, please contact the Excise Taxes Division at 800 400-7115.

8. Can Your License Be Suspended If You Do Not Pay Taxes or Penalties Due?

It is important that you file returns and pay taxes on time. If you do not, your license can be automatically suspended. If your license is suspended, you are still required to file all delinquent returns and pay taxes including applicable penalty and interest charges.

Under the provisions of section 24205 of the Alcoholic Beverage Control Act, your license can be automatically suspended for the following reasons:

- Failure to have on file a valid bond as required by section 32102 of the Alcoholic Beverage Tax Law.
- Failure to pay taxes or penalties due under the Alcoholic Beverage Tax Law.
- Failure to pay taxes or penalties due under the Revenue and Taxation Code.

Under the provisions of the Alcoholic Beverage Control Act, it is unlawful to exercise any of the privileges conferred by a license on or after the date of the notice of revocation until such time as the license is reinstated.

If you have any questions, please contact the State Board of Equalization, Excise Taxes Division at 800-400-7115.

9. Alcoholic Beverage Tax Regulations — We Would Like To Hear From You

To help businesses comply with Board regulations regarding the Alcoholic Beverage Tax program, the Excise Taxes Division is recommending a general review of all regulations to propose revisions that will make the regulations easier to understand (for example, revisions may be proposed to the structure, syntax, grammar, and/or punctuation in the wording of the regulations).

Interested parties are invited to attend and your input will be considered. If you are interested in participating, we hold interested party meetings throughout the year. Please visit our website at www.boe.ca.gov/meetings/meetings.htm to determine when this topic will be discussed or call the Excise Taxes Division at 800-400-7115 for more information.

CIGARETTES AND TOBACCO PRODUCTS

10. Change in the California Cigarette Tax Stamps

Since August 2001, California 20s, machine-applied cigarette stamps have been manufactured to include an alpha character. The alpha character replaces one digit in the serial number. For example, instead of a five-digit serial number, there is an alpha character followed by a four-digit serial number. The alpha character is randomly selected.

If you have any questions, please contact the Excise Taxes Division at 800-400-7115.

EMERGENCY TELEPHONE USERS SURCHARGE

11. Effect of Federal Mobile Telecommunications Sourcing Act on Emergency Telephone Users Surcharge Law

The U.S. Congress recently enacted the Mobile Telecommunications Sourcing Act to establish uniform sourcing rules nationwide for the state and local taxation of mobile telecommunications services.

Following the passage of the Mobile Telecommunications Sourcing Act, the California State Legislature adopted Senate Bill 896 (Statutes 2001, Chapter 638) to amend the Emergency Telephone Users Surcharge (911 Surcharge) Law to conform to that Act.

Senate Bill 896 amends section 41020 of the 911 Surcharge Law and provides that the 911 surcharge does not apply to any charges for mobile telecommunications services billed to a customer where those services are provided, or deemed provided, to a customer whose place of primary use is outside this state.

A customer's "place of primary use" is defined under section 41020 as the residential street address or the primary business street address of the customer which is within the licensed area of the home service provider.

Example. You have a customer whose residential street address is within your licensed service area *but is outside California*. Do you apply the 911 surcharge to the customer's roaming charges? No. The 911 surcharge does not apply to the roaming charges and should not be billed to the customer or reported as revenue to the

Board of Equalization. If the customer's residential street address was in California, the 911 surcharge would apply to the roaming charges.

For More Information

Information Center
800-400-7115

Telephone devices for the deaf
800-735-2929 (TDD)
800-735-2922 (voice)

Excise Taxes Division. Write to us at: Excise Taxes Division, MIC:56, State Board of Equalization, P.O. Box 942879, Sacramento, CA 94279-0056. Or call us at 916-327-4208. Staff are available from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding State holidays.

Internet. Visit us at www.boe.ca.gov to obtain information on tax rates, publications, legislation, regulations, telephone numbers, education programs, public meetings, and so forth.

Tax Evasion Hotline. To report suspected tax evasion, please call toll-free, **888-334-3300**.

Copies of Legislative Bills. Write to the Legislative Bill Room, State Capitol, Room B-32, Sacramento, CA 95814. Or visit the following website: www.leginfo.ca.gov. The Bill Room does not provide copies of Board forms or publications.

Taxpayers' Rights Advocate. If you need help with a problem you have been unable to resolve at other levels, please contact the Advocate's office for assistance. Call **888-324-2798**.